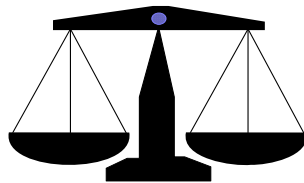


**A SUMMARY OF SELECTED BILLS
TRULY AGREED TO AND FINALLY PASSED**

**By The
94th General Assembly
First Regular Session**



**Prepared By
Office of State Courts Administrator
June 2007**

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INTRODUCTION

In their role of interpreting the statutes of Missouri, judges have a potential interest in almost any bill enacted. However, for this synopsis certain bills have been selected which appear to have a direct impact on the workload or procedures of the courts, or which appear likely to come to the attention of the courts within a short time. Some bills, which may provide for specific types of cases which are expected to be of low volume and therefore not of general interest, have not been included in this summary.

The individual summaries cover the major points of the bills or those sections that affect the courts, but they do not address every issue in each bill and should not be read as a substitute for reading the bill in the context of the entire chapter in the statutes.

Because of the disparate provisions in many of the bills, they have not been arranged by subject matter, but in numerical order. A table of contents is provided at the front of this document.

All of the bills included have been truly agreed to and finally passed, however not all bills have been signed into law by the Governor. Bills become effective August 28, 2007 unless otherwise indicated. We have indicated the date signed on those bills with an emergency clause.

A link to each bill has been provided in the document. For a copy of any bill, please direct your request to:

Senate Bill Room
State Capitol
Jefferson City, Missouri 65101

House Post Office
State Capitol
Jefferson City, Missouri 65101

Staff of the Office of State Courts Administrator are willing to assist you in obtaining further information about any of the legislation.

SENATE BILLS

SB 3 MENTAL HEALTH REFORM

Defines "vulnerable person" as any person in the custody, care, or control of the department that is receiving services from an operated, funded, licensed, or certified program. This act also creates the crime of "vulnerable person abuse" and provides for mandatory reporting of suspected vulnerable person abuse as well as investigation protocols.

ABUSE AND NEGLECT INVESTIGATIONS

Under current law the findings of abuse and neglect investigations conducted by the Department of Mental Health are confidential and reports of the investigations can only be issued to the parent or guardian of the Department of Mental Health client who is the subject of the investigation. This act makes the final reports of substantiated Department of Mental Health abuse and neglect investigations at state facilities and contract providers issued on or after August 28, 2007, available as public documents, with restrictions on the release of any identifying information about clients and staff.

This act also provides that records and files maintained in any court proceeding shall be confidential and available to the Missouri state highway patrol for reporting to the National Instant Criminal Background Check System (NICS).

This act increases the penalty for a mandated reporter not reporting abuse and neglect from an infraction to a Class A misdemeanor. This act also imposes sanctions and penalties on providers that prevent or discourage the reporting of abuse and neglect. §565.210 to 565.220, 630.005, 630.127, 630.140, 630.163, 630.165, 630.167 RSMo

Summary provided by Senate Research

CCS HCS SS SCS SB 22 MUNICIPAL COURTS

Permits any charter county to prosecute violations of county ordinances in circuit court or county municipal court. In addition, this bill allows Kansas City to establish an administrative adjudication system for adjudicating parking and other nonmoving municipal code violations. §66.010 and 479.011 RSMo

CCS HCS SCS SB 62 & 41 CONCEALABLE FIREARMS

The permit requirement for the purchase of a concealable firearm is repealed.

In addition to current restrictions on the use of force, a person is not justified in using force against another if such person was attempting to commit, committing, or escaping after committing a forcible felony.

In addition to other circumstances when deadly force may be used, a person may use deadly force against an individual who unlawfully enters, remains, or attempts to enter a dwelling, residence, or vehicle lawfully occupied by the person or to protect himself or herself against death, serious injury, or any forcible felony.

A person does not have a duty to retreat from a dwelling, residence, or vehicle where the person is not entering or remaining unlawfully.

A person who uses justified force shall have an absolute defense to criminal prosecution or civil liability for the use of such force. The court shall award attorney's fees, court costs, and all reasonable expenses incurred by the defendant in defense of any civil action brought by the plaintiff if the court finds that the defendant has an absolute defense.

This act makes an exception to certain provisions of the unlawful use of a weapon statute for federal flight deck officers and qualified retired peace officers.

Makes state restrictions on the transfer of concealable firearms identical to certain federal restrictions and removes the penalty.

Currently, upon conviction of a felony in violation of the law perpetrated by the use of a firearm, the court may order the confiscation and disposal of such firearm. Under this act, the court may also order the sale or trade of such firearm to a licensed firearm dealer. The proceeds of such sale or trade shall be the property of the police or sheriff's department responsible for the defendant's arrest or the confiscation of the firearms and ammunition.

For purposes of the concealed carry endorsement statute, the requirement of demonstrating knowledge of firearms safety training shall be satisfied with the submission of proof that the applicant currently holds a valid peace officer license, the applicant is currently allowed to carry a firearm as a probation and parole officer, or the applicant is certified as a corrections officer and has passed at least one eight-hour firearms training course.

Requires certain mental health records to be made available Highway Patrol for reporting to the National Instant Background Check System. §476.083, 563.031, 563.074, 571.030, 571.080, 571.090, 571.095, 571.111, 630.140 RSMo

Summary provided by Senate Research

CCS HCS SB 84 CHILD PLACEMENTS

CRIMINAL BACKGROUND CHECKS IN EMERGENCY PLACEMENTS

This act modifies provisions relating to criminal background checks when there has been an emergency placement of a child in a private home. Under current law, the criminal background check must be made within fifteen business days and there is an exception for conducting background checks for family members who are within the second degree of consanguinity of the child.

This act provides that the criminal background check be made within fifteen calendar days and removes the family member exception. These changes are consistent with Federal Bureau of Investigation regulations on emergency use of its system for background checks for the placement of children in out-of-home care.

CRIMINAL BACKGROUND CHECKS

This act allows the Children's Division of the Department of Social Services and the Department of Health and Senior Services to waive the fingerprint background check requirement for a foster care applicant when recertifying the foster care home.

INTERSTATE COMPACT FOR THE PLACEMENT OF CHILDREN

This act revises the Interstate Compact for the Placement of Children. The compact is an existing agreement between the states regarding the placement of children from one state to another. The compact facilitates ongoing supervision of a placement, the delivery of services, and communication between the states and ensures that children are placed in safe and suitable homes in a timely manner. Adoption of the revised compact makes Missouri a member of the Interstate Commission for the Placement of Children and requires the state to establish a central state compact office to be responsible for state compliance with the compact and rules of the commission. The compact establishes the powers and duties of the interstate commission and specifies provisions regarding bylaws, structure, rule-making authority, financing mechanism, a process for dispute resolution, and enforcement. The compact becomes effective August 28, 2007, or upon legislative enactment of the compact into law by no less than 35 states, whichever occurs later.

This act requires that a family support team meeting or juvenile court proceeding regarding the termination of parental rights be closed if a parent has terminated, in writing, his or her parental rights regarding a placement in a licensed child placing agency and allows a licensed child placing agency to file a petition for the transfer of custody.

INTERSTATE COMPACT FOR JUVENILES

This act revises the Interstate Compact for Juveniles. The compact is an existing agreement between the states regarding the supervision and transfer of juvenile delinquents who have escaped from supervision to another state. Adoption of the compact makes Missouri a member of the Interstate Commission for Juveniles and requires the state to select a compact administrator to manage the state's transfer of those juveniles subject to the compact. The compact establishes the powers and duties of the interstate commission and specifies the bylaws, corporate structure, rule-making authority, financing mechanism, process for dispute resolution, and enforcement provisions. The compact becomes effective August 28, 2007, or upon legislative enactment of the compact into law by no less than 35 states, whichever occurs later.

TERMINATION OF PARENTAL RIGHTS

This act requires a juvenile officer or the juvenile division of the circuit court to file a petition for the termination of parental rights within 60 days of the judicial determination. Filing a petition after 60 days will not prohibit the court's jurisdiction to adjudicate a petition for the termination of parental rights.

MISSOURI STATE HIGHWAY PATROL AND FINGERPRINT CHECKS

Currently, an entity making a request, as required by law, for criminal history record information that is not based on a fingerprint search must pay a fee of not more than \$5 per request. Entities making requests not required by law cannot be charged more than \$10. Under this act, an entity cannot be made to pay more than \$9 dollars for such a request regardless of whether required by law. However, after January 1, 2010, the Superintendent of the Highway Patrol may increase the fee by not more than \$1 per year. Under no circumstances shall the fee exceed \$15 dollars per request.

Currently, an entity making a request for criminal history record information that is based on a fingerprint search must pay a fee of not more than \$14 per request when such request is required by law. When not required by law, the entity may be charge not more than \$20 for such request. Under this act, an entity cannot be charged a fee of more than \$20 dollars for criminal history record information based on a fingerprint search, unless the request is required by the concealed carry endorsement statute or the foster home, residential care facility, or child placing agency licensing statutes, in which case, the fee shall be \$14. §43.530, 210.482, 210.487, 210.570, 210.580, 210.620, 210.622, 210.625, 210.635, 210.640, 210.762, 210.1012, 211.319, 211.444, 211.447, 650.025

Summary provided by Senate Research

HCS SCS SB 163 BASIC CIVIL LEGAL SERVICES FUND AND COURT REPORTERS

Extends the Basic Civil Legal Services Fund expiration to December 31, 2012.

Provides that any deposition prepared by a person who is not a certified court reporter may be used as testimony in any court in this state as long as all of the following circumstances are met:

- (1) All parties must consent to using an uncertified court reporter;
- (2) All parties must certify that the deposition is a true and correct copy of the testimony given;
- (3) The uncertified court reporter must state on the record that he or she is an uncertified court reporter appearing by the consent of the parties;
- (4) The uncertified court reporter must keep a voice recording of the deposition for two years, to be provided to any party upon request;
- (5) The uncertified court reporter must have applied for the certified court reporter examination and paid all required application fees;
- (6) The notice of deposition must contain a statement that an uncertified court reporter will be used.
- (7) An uncertified court reporter granted privileges under this subsection shall be deemed operating under a temporary certificate.

The provisions of this section shall expire on December 12, 2012.

Increases fees paid to court reporters for transcription services. The fee for an original transcript is increased from \$1.50 to \$2.00 per twenty-five line page. §477.650 and 488.2250, RSMo

Summary provided by Senate Research

HCS SCS SB 198 CONTROLLED SUBSTANCES

Creates the crime of distribution of a controlled substance near a park. It shall be a Class A felony to unlawfully distribute or deliver heroin, cocaine, LSD, amphetamine, or methamphetamine in, on, or within 1,000 feet of a public or private park.

It shall be a Class B misdemeanor for any individual to fish, hunt, trap, or retrieve wildlife on any private land which is not owned by or in the lawful possession of such individual or on private land where such use is not expressly permitted by the lawful owner or holder of the land. A person who knowingly violates this provision may additionally be subject to the surrender of any hunting or fishing license issued by the Conservation Commission for up to one year. It shall also be a Class B misdemeanor to drive or flush wildlife from any such private land or to shoot wildlife that has been unlawfully driven or flushed from any such private land. §195.217, 253.095, 253.421, 578.520, 578.525, and 578.530 RSMo

Summary provided by Senate Research

SCS SB 302 LIENS

Provides that the six month statute of limitations for filing a lien shall apply to the labor portion involved with the use of rental equipment while the 60 day time-frame shall apply to the rental equipment value. The act also provides that the five-day written notice of using rental equipment shall not apply to the labor provided by the persons using the rental equipment. §429.010, 429.080, and 429.603 RSMO

Summary provided by Senate Research

CCS #2 HCS #2 SB 406 EMPLOYEE BENEFIT PLANS

Provides that the board of the Missouri Consolidated Health Care Plan (MCHCP) is required to offer all qualified state employees and retirees, in addition to the plans currently offered including but not limited to health maintenance organization plans, preferred provider organization plans, and copay plans, the option of receiving health care through a high deductible health plan and the establishment of a health savings account, in conformation to guidelines established by the Internal Revenue Service. In order for qualified individuals to obtain a high deductible health plan through MCHCP, the individual must present evidence to the board that he or she has established a health savings account in compliance with federal law.

Provides that qualifying dependents of members of the MCHCP may elect to continue medical coverage, as long as the individuals to be covered have been continuously covered within 60 days of a loss of group coverage, and such coverage was in place for at least 12 months prior to the loss, and the loss was due to the dependent's termination of employment or termination of group coverage by the employer. Also corrects numerical statutory references.

Changes the required hours for benefit eligibility under the definition of "employee" from 1000 to 1040 hours to be consistent with the personnel advisory board rules.

Allows juvenile officers in single county circuits to receive creditable prior service in MOSERS for service as a juvenile court employee before July 1, 1999, if the service is not credited in a county retirement plan. Also redefines "juvenile court employee" to include juvenile court personnel who were paid by a grant, allowing this service to be creditable for retirement purposes. §50.1250, 86.1230, 86.1600, 87.006, 103.085, 104.010, 104.040, 104.160, 104.312, 104.320, 104.344, 104.352, 104.354, 104.380, 104.395, 104.805, 104.1003, 104.1012, 104.1015, 104.1021, 104.1024, 104.1027, 104.1039, 104.1051, 104.1072, 104.1087, 104.1090, 105.660, 105.665, 105.910, 105.915, 105.920, 169.010, 169.070, 169.466, 169.471, 169.670, and 211.393, RSMo

Summary provided by Senate Research

CCS HCS SS SCS SB 577 MISSOURI HEALTH IMPROVEMENT ACT OF 2007

Before any probate estate may be closed with respect to a decedent who at the time of death was enrolled in MO HealthNet, the personal representative of the estate shall file with the clerk of the court exercising probate jurisdiction a release from the MO HealthNet division evidencing payment of all MO HealthNet benefits, premiums, or other such costs due from the estate under law, unless waived by the MO HealthNet division. §473.398 RSMo

HOUSE BILLS

SCS HB 41 CRIMINAL HISTORY RECORDS

Increases the amount an entity requesting criminal history record information not based on a fingerprint search must pay from up to \$5 per request to up to \$9. After January 1, 2010, the patrol superintendent may increase this fee up to \$1 per year, up to a maximum of \$15. Any entity requesting criminal history record information based on a fingerprint search will be required to pay up to \$20 per request. If the request is for a concealed carry endorsement or foster parent license, the fee will be \$14. §43.030, 43.050, 43.090, 43.220, 43.530, 84.120, 84.170, 86.365, 195.503, 590.040, and 650.120, RSMo

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HCS HB 182 DO-NOT-RESUSCITATE ACT

Specifies the individuals and entities that are exempt from civil or criminal liability for withholding or withdrawing resuscitation pursuant to an order or identifier if the actions were performed in good faith and without gross negligence. Anyone who knowingly conceals, cancels, defaces, or obliterates an order or identifier without the individual's consent or knowingly falsifies or forges a revocation will be guilty of a class A misdemeanor. Anyone who knowingly executes, falsifies, or forges an order without the individual's consent or knowingly conceals or withholds the knowledge of a revocation of an order will be guilty of a class D felony.

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CCS HB 574 ALCOHOL

This bill changes the laws regarding the St. Louis Board of Police Commissioners and law enforcement system records. The bill:

Removes the requirement that a licensed physician, registered nurse, or trained medical technician must use a nonalcoholic antiseptic for cleansing the skin prior to drawing blood for the purpose of determining the alcohol content of the blood; and

Requires courts to forward alcohol- or drug-related driving offense dispositions to the Department of Revenue within seven days and requires the department to forward the information to the State Highway Patrol within 15 days.

The bill contains an emergency clause on the provisions regarding the use of a nonalcoholic antiseptic for cleansing the skin prior to drawing blood for the purpose of determining alcohol content. §577.051 RSMo

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SS SCS HCS HB 583 CRIME VICTIMS

This bill changes the laws regarding the rights of victims of domestic violence and sexual assault.

MINOR'S ABILITY TO CONTRACT

Individuals 16 to 17 years of age who are homeless, self-supporting, and whose parents have given implied or express consent can enter into a contract to receive services as a victim of domestic and sexual violence.

ORDERS OF PROTECTION

The bill requires the circuit clerk to notify by phone an individual who is petitioning for an ex parte order of protection by phone when the order has been served or if no more attempts to serve are planned if the petitioner has opted to register a phone number with the victim notification system established in Section 650.310, RSMo. All attempts to serve orders of protection must be tracked by the agency responsible for serving the order.

VICTIMS OF CHILD PORNOGRAPHY

A child that was a victim of sexual exploitation and child pornography and who suffered physical or mental injury or illness as a result of the crime is entitled to civil litigation to recover actual and civil costs. All litigation must be filed by the time the child reaches 31 years of age or within three years of the date the victim discovers his or her mental or physical injury, whichever occurs later.

DOMESTIC ASSAULT

A person who commits domestic assault in the first degree will be guilty of a class A felony if he or she has previously pled guilty to or has been found guilty of committing the crime. Currently, this crime is a class B felony unless the person inflicts serious physical injury on the victim, in which case it is a class A felony.

SEXUAL ASSAULT VICTIMS

Victims of sexual assault will not be required to take polygraph tests or psychological stress evaluator exams. After August 28, 2007, information in court records that could be used to identify any victim of sexual assault will be closed. Identifying information includes the name, address, telephone number, Social Security number, physical characteristics, or any other information that the court believes could be used to locate a victim.

ADDRESS CONFIDENTIALITY PROGRAM

The Address Confidentiality Program is established, administered by the Office of the Secretary of State, to protect victims of domestic violence by establishing a designated address for victims and their minor children. An adult, parent of a minor, or guardian of an incapacitated person can apply to the Secretary of State to have a designated address assigned. The application must contain certain information, including the person's mailing address, the applicant's signature, and a designation of the Secretary of State as agent for the purpose of service of process and receipt of first-class mail, legal documents, and certified mail. The applicant must supply a sworn statement that he or she is a victim of violence and fears further violent acts from his or her assailant. The applicant must also supply addresses that he or she does not want disclosed because it will jeopardize the applicant's safety. Upon receiving a properly completed application, the Secretary of State can certify the applicant as a program participant for four years and forward his or her first-class mail, legal documents, and certified mail. Notification of lapsing certification and a reapplication form must be sent to the program participant at least four weeks prior to expiration. Knowingly submitting a misrepresented application will be a class D felony. The Secretary of State can cancel, with limited exceptions, the certification of a program participant if:

- (1) The participant obtains a name change;
- (2) There is a change in the mailing address from the person listed on the application and another address is not provided; or
- (3) The applicant or participant provides false information or makes false claims in the application or assists another person in doing so.

State and local agencies and the courts must accept the designated address as a program participant's address when creating new public records unless statute requires otherwise. The Secretary of State can make a program participant's address or mailing address available if requested by law enforcement or the director of a state agency if he or she shows a statutory or administrative requirement for the use of the address. The Secretary of State must make a program participant's addresses available:

- (1) To a person identified in a court order when the order specifically requires the disclosure of a participant's address and the reasons for the disclosure; or
- (2) If the certification has been cancelled because the applicant or participant used false information in an application or made a false claim.

A program participant's application and supporting materials are not a public record and must be kept confidential.

VICTIM RIGHTS AT PUBLIC HEARINGS

A victim can offer a statement by counsel or a representative designated by the victim in lieu of a personal appearance at a hearing before the juvenile authorities, the board of probation and parole, or a mental health facility. The victim also has the right to have a partition set up in the probation and parole hearing room in order to shield the victim from the offender. An employer cannot discharge or discipline an employee for attending a criminal proceeding or require any witness, victim, or member of the victim's family to use vacation time, personal time, or sick leave for honoring a subpoena to testify at, attend, or participate in a criminal proceeding.

CRIME VICTIMS' COMPENSATION

A party aggrieved by a decision of the Department of Public Safety on a claim under the Crime Victims' Compensation Fund is allowed to file a petition with the Division of Workers' Compensation within the Department of Labor and Industrial Relations to have the decision heard by an administrative law judge. The petition must be filed within 30 days of notification of the decision. A decision of the administrative law judge is appealable to the Labor and Industrial Relations Commission with the decision appealable to a court of appeals.

In order to properly file a criminal report with the authorities, the report of the forensic exam may be filed with the prosecuting attorney. "Out-of-pocket loss" is defined as unreimbursed or unreimbursable expenses incurred as a result of personal property being seized in a criminal investigation by a law enforcement agency. Under certain circumstance, a victim could receive payment for out-of-pocket losses from the Crime Victims' Compensation Fund for the value of the loss sustained but cannot exceed \$250. §191.225, 217.692, 431.056, 455.003, 455.038, 537.047, 565.072, 566.224, 566.226, 589.660, 589.663, 589.666, 589.669, 589.672, 589.675, 589.678, 589.681, 589.683, 595.030, 595.036, and 595.209 RSMo

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SCS HCS HB 795 KANSAS CITY

The City of Kansas City is allowed to establish, by order or ordinance, an administrative system for adjudicating parking and other civil, nonmoving municipal code violations. Currently, only the City of St. Louis may establish a system. §479.011 RSMo

SS HCS HB 820 DEATH PENALTY EXECUTION TEAM

Requires the Director of the Department of Corrections to select an execution team consisting of medical support personnel and individuals who administer lethal gas or chemicals. Team member identities must be kept confidential, and the departmental record of team members is privileged and not subject to discovery, subpoena, or other means of legal compulsion. §546.720, RSMo